

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

)	8:14CV410
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	MEMORANDUM
)	AND ORDER
v.)	
)	
\$42,000.00 IN UNITED STATES)	
CURRENCY,)	
)	
Defendant.)	
)	

Claimants, Carrie Priest and Michael Carozzi, have each applied for an award of attorney fees under [28 U.S.C. § 2465\(b\)\(1\)\(A\)](#) (“[I]n any civil proceeding to forfeit property under any provision of Federal law in which the claimant substantially prevails, the United States shall be liable for ... reasonable attorney fees and other litigation costs reasonably incurred by the claimant...”). There is no dispute that Claimants substantially prevailed in this action, as the government was ordered to return the seized currency to them.

The Civil Asset Forfeiture Reform Act (“CAFRA”) does not expressly state how attorney fee awards should be calculated. However, this court has used the lodestar method to determine the proper amount to be awarded. See [United States v. \\$48,100.00 in U.S. Currency](#), No. 8:10CV110, 2014 WL 5107472, (D. Neb. Oct. 10, 2014); [United States v. \\$45,000.00 in U.S. Currency](#), No. 8:11CV14, 2014 WL 4674311 (D. Neb. Sept.17, 2014); [United States v. \\$104,160.00 in U.S. Currency](#), No. 8:08CV463, 2009 WL 3839340 (D. Neb. Nov. 17, 2009); [United States v. \\$20,000.00 in U.S. Currency](#), No. 8:07CV214, 2008 WL 824281 (D. Neb. Mar. 18, 2008).

Ms. Priest requests \$36,750.00 for 105 billable hours of work performed by her attorney, Deborah Ellis, at a rate of \$350.00 per hour, plus \$485.92 in expenses, for a total award of \$37,235.92. Mr. Carozzi requests \$45,900.00 for 114.75 billable hours of work performed by his attorney, Charles Hawkins, at a rate of \$400.00 per hour, plus \$1,033.17 in expenses, for a total award of \$46,933.17. The government does not contest the expense amounts or the number of billable hours, but contends the hourly rates are unreasonably high.

Ms. Ellis and Mr. Hawkins both practice law in Minnesota, which is where Claimants reside. Both are experienced criminal defense attorneys, and Ms. Ellis has tried numerous forfeiture cases in state and federal court. Both have been licensed to practice law for over 30 years. There is evidence their hourly rates are reasonable for Minnesota, but “[a] reasonable hourly rate is usually the ordinary rate for similar work in the community where the case has been litigated.” [*Snider v. City of Cape Girardeau*, 752 F.3d 1149, 1159-60 \(8th Cir. 2014\)](#) (citing [*Little Rock Sch. Dist. v. Arkansas*, 674 F.3d 990, 995 \(8th Cir. 2012\)](#)).

“When determining reasonable hourly rates, district courts may rely on their own experience and knowledge of prevailing market rates.” [*Hanig v. Lee*, 415 F.3d 822, 825 \(8th Cir. 2005\)](#). In my view, the rates charged by Claimants’ attorneys are “in line with those prevailing in [Omaha] for similar services by lawyers of reasonably comparable skill, experience, and reputation. [*Blum v. Stinson*, 465 U.S. 886, 895-96 896 n. 11 \(1984\)](#). Considering the factors identified in [*Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 \(5th Cir. 1974\)](#), see [*Marez v. Saint-Gobain Containers, Inc.*, 688 F.3d 958, 966 n. 4 \(8th Cir. 2012\)](#), I find that the requested hourly rates are reasonable under the circumstances and I will award Claimants the full amount of their fee requests.

Accordingly,

IT IS ORDERED:

1. Claimant Carrie Priest's motion for attorney fees (Filing No. [73](#)) is granted, and she shall recover from the United States the sum of \$37,235.92.
2. Claimant Michael Carozzi's motion for attorney fees (Filing No. [74](#)) is granted, and he shall recover from the United States the sum of \$46,933.17.
3. Judgment shall be entered by separate document.

DATED this 13th day of December, 2016.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge